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polymer comprising a polymer backbone and cyclic olefinic pendent groups covalently linked to the polymer backbone; and (ii) a transition metal catalyst.

REMARKS

1. Status of claims

Claims 1-17 are pending.

2. Support for amendments

The amendment of claim 1 is supported by the specification at p. 8, lines 24-28; p. 11, lines 2-26; p. 12, lines 4-6; and Examples 2-10. No new matter has been added. A copy of the amended claim, with insertions indicated by underlining, is attached hereto as an Appendix.

3. Claim rejections under 35 U.S.C. §103

First, claims 1-12 and 16-17 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ching, U.S. Pat. No. 5,744,246 ("Ching") in view of Nordstrom, U.S. Pat. No. 3,536,687 ("Nordstrom"), for reasons made of record in Paper No. 8. Applicants respectfully traverse this rejection.

One of ordinary skill in the art would not be motivated to combine Ching and Nordstrom. Ching teaches packaging articles for food or beverage comprising an oxygen scavenging ribbon within the wall of the packaging article (see, e.g., Ching, Fig. 3), whereas Nordstrom teaches polymers useful as coating resins. There is no teaching or suggestion in the references to apply a polymer coating as taught by Nordstrom to the surface of an oxygen scavenging ribbon. Also,

there is no teaching or suggestion in the references to incorporate a coating polymer into the interior of an oxygen scavenging ribbon.

Also, claim 1, and all claims dependent thereon, recite the limitation “a multi-layer rigid container for food or beverage packaging comprising at least an inner layer *providing substantially all of the interior surface of the rigid container*, an outer layer and a core layer *substantially coextensive* between the inner layer and the outer layer...” (emphasis added).

Ching, in contrast, shows containers wherein only a portion of the interior surface of the rigid container is provided by the inner layer of a multilayer structure comprising an oxygen scavenging core layer (Ching, Figs. 3-4). Further, Fig. 1 of Ching shows a ribbon wherein an oxygen scavenging core layer is not substantially coextensive with an inner layer that provides substantially all of the interior surface of the container.

Nordstrom only discloses polymers comprising cyclohexenyl moieties, and does not teach or suggest containers comprising the multilayer structure recited in claim 1. Because neither reference teaches or suggests the multilayer structure recited in claim 1, even if they properly could be combined, their combination cannot teach the structure either, and claims 1-12 and 16-17 are patentable over Ching and Nordstrom.

Second, claims 13-15 are rejected under 35 U.S.C. §103(a) as being unpatentable over Ching and Nordstrom, further in view of Katsumoto et al., U.S. Pat. No. 6,139,770 (“Katsumoto”). The references are as discussed in Paper No. 8. Applicants respectfully traverse this rejection.

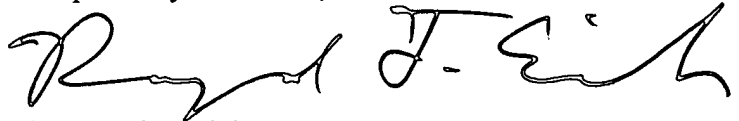
Katsumoto was cited by the Examiner because it discusses photoinitiators, and supplements Ching and Nordstrom in this regard. However, as stated above, the combination of Ching and Nordstrom does not teach or suggest the multilayer rigid container recited by the

present claims, and Katsumoto's teaching regarding photoinitiators does not overcome the lack of teaching and suggestion by the combination of Ching and Nordstrom of the presently-recited multilayer rigid container. Therefore, this rejection of claims 13-15 should be withdrawn.

4. Final comments

Applicants believe all pending claims are in condition for allowance. Should any additional fees under 37 C.F.R. §§ 1.16 to 1.21 be required for any reason, the Assistant Commissioner is authorized to deduct said fees from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2039.006100RFE.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Raymund F. Eich". The signature is fluid and cursive, with the first name "Raymund" being more prominent than the last name "Eich".

Raymund F. Eich
Reg. No. 42,508

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APPENDIX

Amended claim

1. (Twice Amended) A multi-layer rigid container for food or beverage packaging comprising at least an inner layer providing substantially all of the interior surface of the rigid container, an outer layer and a core layer substantially coextensive between the inner layer and the outer layer, wherein the inner and outer layers are comprised of an aromatic polyester or copolyester, and wherein the core layer is comprised of (i) an oxygen scavenging polymer comprising a polymer backbone and cyclic olefinic pendent groups covalently linked to the polymer backbone; and (ii) a transition metal catalyst.